

a conservation plan for the “taking” of listed plant species as long as the activity does not involve federal funding or permitting, or is not in violation of other laws.

5. Under the ESA, private developers can obtain permits to legally harm or even kill federally listed species on their property provided that they show that attempts were made to minimize impacts on the species in other ways.

6. The existence of a federally listed plant species on private property has no legal effect on the landowner unless a project requires a federal permit or uses federal funds and will clearly result in adverse impacts to the listed plant. Landowners, individuals, and agencies are prohibited from taking listed animals without authorization, whether the action is private or federally funded.

7. When critical habitat is designated for federally listed species, it applies only to federal actions, not to state or local projects, and not to the actions of private landowners unless there is federal funding or permitting involved.

STATE LAW

1. North Carolina endangered species laws apply to species listed by the state as Endangered, Threatened, or Special Concern.

2. The state plant and animal endangered species laws are modelled after the ESA, in that they prohibit illegal trafficking or poaching of listed species.

3. The state endangered animal species law states that “no rule may be adopted that restricts use or development of private property.”

4. The state endangered plant species law states that “the incidental disturbance of protected plants during agricultural, forestry, or development operations is not illegal so long as the plants are not collected for sale or commercial use.” Collection of federal or state listed plants from public or private land can only be done with the landowner’s written permission and a permit from the N.C. Department of Agriculture’s Plant Conservation Program.